

1 AN ACT
2 RELATING TO TAXATION; AMENDING CERTAIN SECTIONS OF THE
3 PROPERTY TAX CODE CONCERNING THE IMPOSITION OF PROPERTY
4 TAXES ON CERTAIN OMITTED PROPERTY.
5

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

7 Section 1. Section 7-38-24 NMSA 1978 (being Laws 1973,
8 Chapter 258, Section 64, as amended) is amended to read:

9 "7-38-24. PROTESTING VALUES, CLASSIFICATION,
10 ALLOCATION OF VALUES AND DENIAL OF EXEMPTION OR LIMITATION
11 ON INCREASE IN VALUE DETERMINED BY THE COUNTY ASSESSOR. --

12 A. A property owner may protest the value or
13 classification determined by the county assessor for his
14 property for property taxation purposes, the assessor's
15 allocation of value of his property to a particular
16 governmental unit or denial of a claim for an exemption or
17 for a limitation on increase in value by filing a petition
18 with the assessor. Filing a petition in accordance with
19 this section entitles the property owner to a hearing on his
20 protest.

21 B. Petitions shall:

22 (1) be filed with the county assessor on or
23 before:

24 (a) the later of April 1 of the
25 property tax year to which the notice applies or thirty days

1 after the mailing by the assessor of the notice of valuation
2 if the notice was mailed with the preceding year's tax bill
3 in accordance with Section 7-38-20 NMSA 1978;

4 (b) thirty days after the mailing of a
5 property tax bill on omitted property pursuant to
6 Section 7-38-76 NMSA 1978; or

7 (c) in all other cases, thirty days
8 after the mailing by the assessor of the notice of
9 valuation;

10 (2) state the property owner's name and
11 address and the description of the property;

12 (3) state why the property owner believes
13 the value, classification, allocation of value or denial of
14 a claim of an exemption or of a limitation on increase in
15 value is incorrect and what he believes the correct value,
16 classification, allocation of value or exemption to be; and

17 (4) state the value, classification,
18 allocation of value or exemption that is not in controversy.

19 C. Upon receipt of the petition, the county
20 assessor shall schedule a hearing before the county
21 valuation protests board and notify the property owner by
22 certified mail of the date, time and place that he may
23 appear to support his petition. The notice shall be mailed
24 at least fifteen days prior to the hearing date.

25 D. The county assessor may provide for an

1 informal conference on the protest before the hearing."

2 Section 2. Section 7-38-42 NMSA 1978 (being Laws 1979,
3 Chapter 343, Section 1) is amended to read:

4 "7-38-42. COLLECTION AND RECEIPT OF AND ACCOUNTING FOR
5 PROPERTY TAXES--APPLICATION OF RECEIPTS TO DELINQUENT
6 TAXES. --

7 A. The county treasurer has the responsibility
8 and authority for collection of taxes and any penalties or
9 interest due under the Property Tax Code except for the
10 collection of delinquent taxes, penalties and interest
11 authorized to be collected by the department under
12 Section 7-38-62 NMSA 1978.

13 B. Property taxes, penalties and interest
14 collected shall be receipted and accounted for in accordance
15 with law and regulations of the department of finance and
16 administration.

17 C. Any payments received by the treasurer or the
18 department as payments for property taxes, penalties or
19 interest shall be first applied to the oldest outstanding
20 unpaid property taxes, penalties or interest accrued in
21 prior property tax years on the property identified and
22 described in the property tax bill for which payment is
23 tendered or, if the payment cannot be identified with a
24 particular year's property tax bill, then the payment shall
25 be applied first to the oldest liability for property taxes,

1 penalties and interest shown in the treasurer's records
2 under the name of the paying taxpayer. In applying the
3 foregoing requirements for applications of payments and in
4 the adoption of any regulations to implement those
5 provisions, the following additional rules shall apply:

6 (1) applications of payments to a prior
7 year's delinquent taxes, penalties and interest shall not be
8 made for more than ten years prior to the year of payment
9 unless the treasurer's records show that the property for
10 which taxes are delinquent has been deeded to the state of
11 New Mexico and that property has not been sold by the state
12 pursuant to applicable law;

13 (2) applications of payments to a prior
14 year's delinquent taxes, penalties and interest shall not be
15 made if:

16 (a) the prior year for which the
17 delinquent taxes, penalties or interest are due is not the
18 immediately preceding tax year;

19 (b) the delinquent taxes, penalties or
20 interest are the result of real estate improvements that
21 were omitted from property tax schedules in the prior year
22 and listed and billed pursuant to Section 7-38-76 NMSA 1978;

23 (c) the current owner was not the
24 owner at the time the improvements were omitted and had no
25 actual notice that the improvements were omitted; and

(d) the payments were made by or on

1 behalf of the current owner;

2 (3) after application of payment received,
3 if all or part of the payment has been applied to a prior
4 year's delinquent taxes, penalties or interest, the
5 receipting authority shall issue a receipt to the paying
6 taxpayer showing the application of the payment and
7 indicating any balance due for taxes, penalties or interest
8 to bring the property tax payment status current; and

9 (4) the failure of a receipting authority
10 to apply a payment as required under this subsection or the
11 failure to issue a required receipt to the taxpayer of the
12 status of his account shall not relieve the taxpayer of
13 liability for taxes, penalties or interest he would
14 otherwise be required to pay nor does action or inaction by
15 the receipting authority act to estop the collecting
16 authority from taking any action to collect or enforce the
17 payment of taxes, penalties and interest legally due. "

18 Section 3. Section 7-38-48 NMSA 1978 (being Laws 1973,
19 Chapter 258, Section 88, as amended) is amended to read:

20 "7-38-48. PROPERTY TAXES ARE A LIEN AGAINST REAL
21 PROPERTY FROM JANUARY 1--PRIORITIES--CONTINUANCE OF TAXING
22 PROCESS.--

23 A. Except as provided in Subsection B of this
24 section, taxes on real property are a lien against the real
25 property from January 1 of the tax year for which the taxes

1 are imposed. The lien runs in favor of the state and
2 secures the payment of taxes on the real property and any
3 penalty and interest that become due. The lien continues
4 until the taxes and any penalty and interest are paid. The
5 lien created by this section is a first lien and paramount
6 to any other interest in the property, perfected or
7 unperfected. The annual taxing process provided for in the
8 Property Tax Code shall continue as to any particular
9 property regardless of prior tax delinquencies or of pending
10 protests, actions for refunds or other tax controversies
11 involving the property, including a sale for delinquent
12 taxes.

13 B. No lien is created pursuant to Subsection A
14 of this section if:

15 (1) the tax otherwise creating the lien is
16 not due for the current tax year or the immediately
17 preceding property tax year;

18 (2) the tax otherwise creating the lien is
19 the result of real estate improvements that were omitted
20 from property tax schedules in a prior year and listed and
21 billed pursuant to Section 7-38-76 NMSA 1978; and

22 (3) the current owner was not the owner at
23 the time the improvements were omitted and had no actual
24 notice that the improvements were omitted. "

25 Section 4. Section 7-38-65 NMSA 1978 (being Laws 1973,

1 Chapter 258, Section 105, as amended by Laws 2001,
2 Chapter 253, Section 1 and by Laws 2001, Chapter 254,
3 Section 1) is amended to read:

4 "7-38-65. COLLECTION OF DELINQUENT TAXES ON REAL
5 PROPERTY-- SALE OF REAL PROPERTY. --

6 A. If a lien exists by the operation of
7 Section 7-38-48 NMSA 1978, the department may collect
8 delinquent taxes on real property by selling the real
9 property on which the taxes have become delinquent. The
10 sale of real property for delinquent taxes shall be in
11 accordance with the provisions of the Property Tax Code.
12 Real property may be sold for delinquent taxes at any time
13 after the expiration of three years from the first date
14 shown on the tax delinquency list on which the taxes became
15 delinquent. Real property shall be offered for sale for
16 delinquent taxes either within four years after the first
17 date shown on the tax delinquency list on which the taxes
18 became delinquent or, if the department is barred by
19 operation of law or by order of a court of competent
20 jurisdiction from offering the property for sale for
21 delinquent taxes within four years after the first date
22 shown on the tax delinquency list on which the taxes became
23 delinquent, within one year from the time the department
24 determines that it is no longer barred from selling the
25 property, unless:

1 (1) all delinquent taxes, penalties,
2 interest and costs due are paid by 5:00 p.m. of the day
3 prior to the date of the sale; or

4 (2) an installment agreement for payment of
5 all delinquent taxes, penalties, interests and costs due is
6 entered into with the department by 5:00 p.m. of the day
7 prior to the date of the sale pursuant to Section 7-38-68
8 NMSA 1978.

9 B. Failure to offer property for sale within the
10 time prescribed by Subsection A of this section shall not
11 impair the validity or effect of any sale which does take
12 place.

13 C. The time requirements of this section are
14 subject to the provisions of Section 7-38-83 NMSA 1978. "

15 Section 5. Section 7-38-76 NMSA 1978 (being Laws 1973,
16 Chapter 258, Section 116, as amended) is amended to read:

17 "7-38-76. PROPERTY SUBJECT TO PROPERTY TAXATION BUT
18 OMITTED FROM PROPERTY TAX SCHEDULES IN PRIOR YEARS. --

19 A. Subject to the limitations contained in the
20 Property Tax Code and except as provided in Subsection B of
21 this section, county assessors, treasurers and the
22 department have the authority and the duty to enter in the
23 valuation records, list on the property tax schedules, bill
24 for and collect the taxes for all tax years on property that
25 was subject to property taxation but was omitted from

1 property tax schedules and for which taxes have not been
2 paid but would be due except for the omission. Property tax
3 bills shall be prepared and mailed by the county treasurers
4 within thirty days of the date the omitted property is
5 listed on the property tax schedule, and all taxes on
6 omitted property shall be due the date the property tax bill
7 is mailed.

8 B. Except for taxes due in the current tax year
9 and the immediately preceding tax year, the current owner of
10 the real estate is not liable for a property tax bill mailed
11 pursuant to Subsection A of this section if:

12 (1) the omitted property is improvements
13 that were placed on the real estate; and

14 (2) the current owner was not the owner at
15 the time the improvements were omitted and had no actual
16 notice that the improvements were omitted.

17 C. Nothing in this section relieves the owner of
18 the property at the time the improvements were omitted from
19 being personally liable for the taxes due pursuant to
20 Section 7-38-47 NMSA 1978.

21 D. The department shall promulgate regulations
22 for the procedures to be followed and the records to be
23 maintained in the administration and collection of taxes on
24 omitted property. The department of finance and
25 administration shall promulgate regulations covering the

